

D<sup>1</sup>  
CDU't  
bp as shown in Fig 4a (SEQ ID NO: 36) and Fig 5a upstream of the transcription start site.

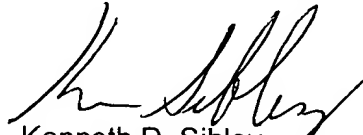
4. (Twice Amended) An isolated promoter sequence according to claim 1 having the sequence as shown in Fig 4a (SEQ ID NO: 36) or mutant, allele, derivative or variant thereof.

#### REMARKS

In response to the Notice of Non-Responsive Amendment mailed November 5, 2002, Applicant has amended the claims to comply with the requirements for applications containing nucleotide and/or amino acid sequences. Accordingly, sequence listing identifiers have been added to the appropriate claims. Applicant submits that the content of the paper and computer readable copies of the Sequence Listing are the same.

Applicant submits that this application is in condition for substantive examination, which action is respectfully requested.

Respectfully submitted,

  
Kenneth D. Sibley  
Registration No. 31,665

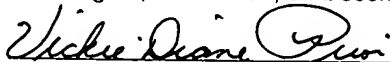


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#### CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231, on December 3, 2002.



Vickie Diane Prior

Date of Signature: December 3, 2002

**Version With Markings To Show Changes Made**

Please amend the claims as follows:

2. (Amended) An isolated promoter sequence according to claim 1 wherein the promoter sequence is construct hProm505 as shown in Fig 4a (**SEQ ID NO: 36**) and Fig 5a.

3. (Twice Amended) An isolated promoter sequence according to claim 1 wherein the promoter sequence is 230 bp in length starting at position -42 bp as shown in Fig 4a (**SEQ ID NO: 36**) and Fig 5a upstream of the transcription start site.

4. (Twice Amended) An isolated promoter sequence according to claim 1 having the sequence as shown in Fig 4a (**SEQ ID NO: 36**) or mutant, allele, derivative or variant thereof.

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